

Pt. 211

The purpose underlying FRA's enforcement of the noise standards is to reduce the impact of rail operations noise on receiving properties. In some instances, measures other than the 30-meter test approach may more effectively reduce the noise levels at receiving properties; therefore, FRA enforcement efforts will focus on abatement procedures that will achieve a reduction of receiving property noise levels to less than 65 dB(A).

For example, a parked, idling locomotive, even if equipped with exhaust silencing that meets the stationary locomotive standard (30-meter test), may cause the receiving property standard to be exceeded if located on trackage adjacent to the receiving property. In that case, application of the 30-meter test to other switcher locomotives at the facility may not serve to reduce the receiving property noise level. On the other hand, operational changes by the railroad could significantly reduce receiving property noise levels. In such case, FRA would consider retesting after abatement measures have been taken. If the receiving property noise level is below the trigger and the abatement action is adopted, FRA would not make a 30-meter test of the switcher locomotives at the facility.

PART 211—RULES OF PRACTICE

Subpart A—General

Sec.

- 211.1 General.
- 211.3 Participation by interested persons.
- 211.5 Regulatory docket.
- 211.7 Filing requirements.
- 211.9 Content of rulemaking and waiver petitions.

Subpart B—Rulemaking Procedures

- 211.11 Processing of petitions for rulemaking.
- 211.13 Initiation and completion of rulemaking proceedings.
- 211.15 Notice and participation.
- 211.17 Publication and contents of notices.
- 211.19 Petitions for extensions of time to comment.
- 211.21 Consideration of comments received.
- 211.23 Additional public proceedings.
- 211.25 Hearings.
- 211.27 Publication of adopted rules and withdrawal of notices.
- 211.29 Petitions for reconsideration of a final rule.
- 211.31 Proceedings on petitions for reconsideration of a final rule.

Subpart C—Waivers

- 211.41 Processing of petitions for waiver of safety rules.

49 CFR Ch. II (10–1–06 Edition)

- 211.43 Processing of other waiver petitions.
- 211.45 Petitions for emergency waiver of safety rules.

Subpart D—Emergency Orders

- 211.47 Review procedures.

Subpart E—Miscellaneous Safety-Related Proceedings and Inquiries

- 211.51 Tests.
- 211.53 Signal applications.
- 211.55 Special approvals.
- 211.57 Petitions for reconsideration.
- 211.59 Proceedings on petitions for reconsideration.
- 211.61 Informal safety inquiries.

Subpart F—Interim Procedures for the Review of Emergency Orders

- 211.71 General.
- 211.73 Presiding officer; powers.
- 211.75 Evidence.
- 211.77 Appeal to the Administrator.

APPENDIX A TO PART 211—STATEMENT OF AGENCY POLICY CONCERNING WAIVERS RELATED TO SHARED USE OF TRackage OR RIGHTS-OF-WAY BY LIGHT RAIL AND CONVENTIONAL OPERATIONS

AUTHORITY: 49 U.S.C. 20103, 20107, 20114, 20306, 20502–20504, and 49 CFR 1.49.

SOURCE: 41 FR 54181, Dec. 13, 1976, unless otherwise noted.

Subpart A—General

§211.1 General.

(a) This part prescribes rules of practice that apply to rulemaking and waiver proceedings, review of emergency orders issued under 45 U.S.C. 432, and miscellaneous safety-related proceedings and informal safety inquiries. The specific time limits for disposition of proceedings apply only to proceedings initiated after December 31, 1976, under the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*). When warranted, FRA will extend these time limits in individual proceedings. However, each proceeding under the Federal Railroad Safety Act shall be disposed of within 12 months after the date it is initiated. A proceeding shall be deemed to be initiated and the time period for its disposition shall begin on the date a petition or application that complies with the requirements of this chapter is received by the person designated in §211.7.

Federal Railroad Administration, DOT

§211.7

(b) As used in this part—

(1) *Administrator* means the Federal Railroad Administrator or the Deputy Administrator or the delegate of either of them.

(2) *Waiver* includes exemption.

(3) *Safety Act* means the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 421 *et seq.*).

(4) *Docket Clerk* means the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, N.W., Mail Stop 10, Washington, D.C. 20590 or the Docket Clerk, Department of Transportation Central Docket Management System, Nassif Building, Room PL-401, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

(5) *Railroad Safety Board* means the Railroad Safety Board, Office of Safety, Federal Railroad Administration, Washington, DC 20590.

(c) Records relating to proceedings and inquiries subject to this part are available for inspection as provided in part 7 of this title.

[41 FR 54181, Dec. 13, 1976, as amended at 64 FR 70195, Dec. 16, 1999]

§211.3 Participation by interested persons.

Any person may participate in proceedings and inquiries subject to this part by submitting written information or views. The Administrator may also permit any person to participate in additional proceedings, such as informal appearances, conferences, or hearings at which a transcript or minutes are kept, to assure informed administrative action and protect the public interest.

§211.5 Regulatory docket.

(a)(1) Records of the Federal Railroad Administration created after November 1, 1998, concerning each proceeding subject to this part are maintained in current docket form by the DOT Docket Management System. These records include rulemaking and waiver petitions, emergency orders, notices, comments received in response to notices, hearing transcripts, final rules, denials of rulemaking petitions, grants and denial of waiver and other petitions. Also included are records pertaining to applications for special approval under

§211.55 and §238.21 of this chapter, petitions for grandfathering approval under §238.203 of this chapter, signal applications under parts 235 and 236 of this chapter, and informal safety inquiries under §211.61.

(2) Any person may examine docketed material created after November 1, 1998:

(i) At the DOT Docket Management System, room PL-401 (plaza level), 400 Seventh Street, S.W. Washington, D.C. 20590. Copies of docketed materials may be obtained upon payment of the fees prescribed by the Docket Management System, or

(ii) Through the Internet at <http://dms.dot.gov>. All docketed materials are available for viewing and may be downloaded for electronic storage or printing. There is no charge for this service.

(b) Records of the Federal Railroad Administration created before November 1, 1998, concerning each proceeding subject to this part are available in FRA's Docket Office, seventh floor, 1120 Vermont Avenue, Washington, DC 20590. Any person may examine docketed material at that location during normal business hours. Copies of docketed material may be obtained upon payment of the fees prescribed in part 7 of this title.

(c) Any person may examine docketed material in the office where it is maintained. Copies of docketed material other than commercially prepared transcripts may be obtained upon payment of the fees prescribed in part 7 of this title.

[41 FR 54181, Dec. 13, 1976, as amended at 64 FR 70195, Dec. 16, 1999]

§211.7 Filing requirements.

(a) Any person may petition the Administrator for issuance, amendment, repeal or permanent or temporary waiver of any rule or regulation. A petition for waiver must be submitted at least 3 months before the proposed effective date, unless good cause is shown for not doing so.

(b)(1) All petitions and applications subject to this part, including applications for special approval under §211.55 and §238.21 of this chapter, petitions for grandfathering approval under